

DRAFT: Customs Concept Paper for Operating in the ACE Environment
(05/29/02)

This paper covers the import and export processes in the ACE environment. ACE will be a knowledge-based system that will provide a central repository for data required by the government. This data repository will be a critical link to effective targeting and border protection. This data will be accessible by Customs and other agencies through the use of integrated analytical tools to support a variety of targeting and data analysis efforts.

1 Execute Pre-Release/Release

Customs supports advance, electronic transmission of manifest information. Automated multi-modal manifest data will provide accurate information and will be available earlier to perform advance targeting, a key to the U.S. Homeland Security initiative.

There will be two categories of release: eRelease and Standard Release.

Release of goods will occur upon transmission, validation, and acceptance of a specified set or range of data elements. A minimum set of pre-filed data elements will be required from approved participants of an eRelease program. eRelease is accomplished by receiving, validating, and correlating release data, and then performing a selectivity analysis on that data, all through a single electronic process. ACE displays selectivity output, responds to data queries by Customs and other parties, such as Participating Government Agencies (PGAs), thereby:

- immediately notifying designated parties of selected events
- providing and accepting data on inspections and other manual processes
- receiving input on release decisions after inspections and other manual processes
- initiating cargo tracking when required for specific transactions; and
- notifying carriers and importers when the final release decision has been made.

eRelease will be restricted to approved account-holders.

For shipments/accounts which do not qualify for eRelease, a different set of pre-defined data elements will be required to obtain release of goods (Standard Release). Any paper documents to support release will result in Standard Release. Release of cargo through this mechanism may still result in release without inspection.

Further policy and legal decisions are pending within Customs regarding the various eRelease and manifest issues.

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A simplified “rate indicator” may be established that will be used to determine the rate of duty. This indicator would serve as a flag for the filer to identify the date of entry. While not wanting to impact the current flexibility afforded to filers when determining date of entry, Customs realizes that a simplified method of determining “entry date” must be a part of the Modernization process. Among the options being considered are that the release date equals the date of entry. All filers will have the option of transmitting all data elements (release and summary) upon initial transmission. In addition, Customs retains the right to require all data elements (release and summary) at time of release. In such cases, the date of entry will be the same as the date of summary. Customs MUST be able to relate each release to a follow-up entry summary or IASS.

2 Execute Entry Summary/IASS

ACE will provide for multiple methods of filing post-release data (entry summary). The traditional method of following-up a release with an entry summary and payment within 10 business days of release will remain. Additional options that may be available to defined accounts are:

- Traditional entry summary filed within 10 working days of release with payment made via a periodic payment option.
- Importer Activity Summary Statement (IASS). The IASS will provide for a monthly aggregated reporting of released goods with a periodic payment schedule.

An example of a periodic payment method is for two estimated monthly payments to be required. For releases between the 1st and 15th of the month, an estimated payment may be required by the 22nd of the month. For releases between the 16th and the end of the calendar month, an estimated payment may be required by the 7th of the following month. While the estimated payments will be made without any link to summary data, they must represent a good-faith estimate of the actual amounts due. *The date of the final payment will be determined according to Customs final policy with respect to periodic payment.*

*The Customs policy on periodic payment is pending final analysis by the Office of Finance. Customs has determined that the periodic payment method will provide for **revenue neutrality**.*

The periodic statement will include payments and refunds. Such payments may be generated at time of summary payment, and/or throughout the entry process, up to final liquidation. Refunds may be generated following summary payment through final liquidation. At the option of the account, payments and refunds may be netted on the periodic statement.

Customs continues to support a simplified drawback approach. The ACE process to execute drawback claim supports the activities required to finalize an

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import transaction for which a drawback claim has been filed. The process involves the refund or remission, in whole or in part, of monies previously paid. A drawback claim may include more than one transaction. Refunds which are the result of approved drawback claims will be issued through the periodic statement.

Both Customs and the Trade recognize that a more efficient means for calculating interest is required. Customs intends that the various options for interest calculation be jointly reviewed.

Customs will process the summary data and, as discussed above, collect estimated monies. While we encourage the earliest possible transmission of the most accurate data, we also realize that ACE must provide for flexibility to amend previously transmitted data. ACE will allow for multiple corrections/multiple collections/multiple refunds throughout the entry process. Filers will be given the opportunity to make non-admissibility related changes to previously submitted data until a reasonable time prior to the scheduled liquidation date, as established by Customs. ACE will forward such changes to the appropriate reviewing party within Customs. Summary data, including changes to summary data, will be transmitted to Census. The finalization of the transaction, termed Liquidation, will occur upon final ascertainment of duties, taxes, and fees. (See Liquidation section below.)

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2.1 Perform Review

Pre-defined system edits will recommend whether a summary line should be reviewed by a Customs officer. The review process occurs when complete summary data has been submitted and either one or more data elements have been identified by ACE selectivity criteria for review or a Customs Officer has designated the summary for review. This review could be the result of a "hit" at the header level data or at the line item level.

When a line item is selected for review, the system provides detailed information to identify what triggered the review. Customs will also have the opportunity to review any line items and determine if a review should be performed. The designation of a line for review will open a "tracer". This tracer will prevent liquidation of the specific line until it is closed by an appropriate Customs officer.

A review trigger will act as a recommendation to an appropriate Customs Officer that further review may be warranted. This designation will not automatically trigger a request for further documentation, but will assist the reviewer in determining whether or not he/she will request further documentation (such as invoices) to assist in their review.

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If any issues are in question, Customs may request additional information and ACE will notify the appropriate parties. When a request for information has been issued and is now overdue, Customs will be alerted through an overdue tracer alert. Based on the additional information received, or if an account cannot provide such information, Customs may take action against the summary/line. This action may include extension or suspension of liquidation, change liquidation, merchandise redelivery, and/or penalty actions, if appropriate.

2.2 Monitor AD/CVD Liquidation Instructions & Other References

For AD/CVD cases, ACE will allow Commerce to transmit liquidation instructions and other AD/CVD case information electronically. The lines associated with a particular case will be organized for liquidation in accordance with the instructions, whether a change or no change liquidation.

2.3 Monitor Quota

An automated quota reporting system with an electronic date/time of presentation "stamp" will provide for immediate notification to Customs and the account of quota status. Release decisions will be based on this automated notification.

2.4 File Reconciliation

Reconciliation provides the capability for the account to identify issues that are not determinable at time of entry summary. These issues are then finalized by the account within a specified period of time.

2.4.1 Flag Summary Line for Reconciliation

ACE will allow the account to flag entry summaries or individual summary line items. Entry summary line items may be flagged for reconciliation whether those lines were filed on a single entry summary or IASS. Flagging line items will alert Customs to the fact that there are open issues that will be resolved by the account via reconciliation within the appropriate time frames. This flagging by the account identifies the line with issues to be resolved at a later date. Issues which may be flagged include NAFTA, value, classification, 9802 and potentially other elements which do not impact admissibility. The account will be given access to view their line items requiring reconciliation. Flagging a line after the date of summary will be allowed based on Customs approval.

2.4.2 Create Reconciliation

If the importer has flagged line items for reconciliation, the importer is obligated to file a Reconciliation for non-NAFTA issues. *Non-NAFTA Reconciliation must be filed within twenty-one months of the summary date of the earliest line item flagged.* While the filing of NAFTA Reconciliations is currently optional, if they are filed, they are due within twelve months of earliest import date of any flagged line item. If a line item flagged for reconciliation of NAFTA is not reconciled within the twelve-month time frame, the importer cannot make a NAFTA claim on that line. ACE will not allow for the filing of an individual 520(d) claim on lines flagged for NAFTA reconciliation.

The Reconciliation will, among other things, identify the total amount of duties, taxes, fees and interest owed to Customs or due to the account. The Reconciliation may also report changes in value (reported on the electronically submitted data), but no net change in duties, taxes, or fees. (These corrections on line items will eliminate the current Supplemental Information Letter (SIL) and Post-Entry Amendment (PEA) processes). Even if no changes to the flagged line item are required, a Reconciliation must still be filed for all non-NAFTA flagged lines. Reconciliation then closes out the open flags.

3 Liquidate Entry Summary Line Items

Liquidation, whether no-change or change, may occur at the entry summary line item or entry summary level (the same applies to extensions and suspensions; they may also occur at the entry summary line item or entry summary level).

3.1 Perform No-Change Liquidation

Line items which are liquidated “no change” will be liquidated with the data which ACE contains at the time of liquidation. This form of liquidation does not imply that no changes were made to the entry data initially submitted, but rather that there are no changes from the information contained in ACE at the date of liquidation. The estimated duties, taxes, and fees deposited by the account are found to be acceptable. We will be working in a “deemed liquidated” environment where it will be assumed by the account that liquidation will occur one year from date of “summary”, i.e., ACE acceptance of entry summary data, unless the account is otherwise contacted. Courtesy notices of liquidation, which are currently mailed, will no longer exist and there will be no posting of paper bulletin notices of liquidation. Account owners or their designees will access their liquidation information through their pre-defined security profile access to an ACE Data Warehouse. As stated previously, lines with an open tracer will not be scheduled for liquidation until the tracer is closed.

With the advent of aggregate, account-based processing, it is also understood that liquidating, extending, and suspending must also allow for the flexibility of

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processing at these levels. ACE will allow for aggregate, account-based processing in all areas.

3.2 Perform Change Liquidation

Change liquidation occurs when Customs determines that a change is warranted in the summary line item(s). Customs identifies the changes needed (i.e., tariff number, incorrect duty rate, quantity/weights, non-dutiable charges, SPI and/or value). These corrections can result in a change in the amount due to Customs or the account. Liquidation of the line items includes identifying the amount to be refunded or due to Customs, and in addition, calculating interest based on the new amount, date(s) of payment and/or date of refund, and crediting or debiting the appropriate account. ACE will schedule change liquidations to occur two weeks after the processing date.

3.3 Perform Reliquidation

The reliquidation process is used to adjust prior liquidation activities. Reliquidation occurs when a liquidation is disputed and the protest is approved by Customs, or as the result of a post-liquidation Customs review. If it is determined that a refund is due to the protesting parties or money is due to Customs, reliquidation must be performed. Reliquidation of the line items includes identifying the amount to be refunded to the protesting parties or the amount due to Customs, and in addition, calculating the interest based on the new amount, date(s) of payment and/or date of refund, and crediting or debiting the appropriate account. The new liquidation date will be scheduled for two weeks after the reliquidation is processed.

4 Execute Protest

The current law provides for 90 days from liquidation to file a protest and 1-year from liquidation to file a petition. *Customs believes a blanket 6-month period from the date of liquidation to file protests and/or petitions would provide a more efficient and streamlined process.* If the date of filing falls outside of the appropriate timeframe, then the protest or petition is denied. If the protest or petition is filed within the appropriate timeframe, ACE receives and stores the protest data and Customs reviews the protest.

If appropriate, an Application for Further Review (AFR) will be filed electronically with the submission of protest. If not requested, the protesting party may amend the protest within the protest review period and request a further review. If an AFR protest is denied locally, the protest is forwarded to Headquarters electronically. Once Headquarters makes a decision, the protest data is sent back to the port and then returned to the port for approval or denial. If a protest is denied locally or by Headquarters, the protesting party still has one more

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option where they can request a decision by the Court of International Trade within the appropriate time frame after denial.

5 Export Merchandise

Prior to export, the U.S. seller for export, or its agent, will transmit the relevant export commodity data to ACE for editing and validation. The carrier will also be required to transmit the export manifest data to ACE for editing and validation. ACE will run selectivity on export transactions along with their manifests. A tracer will be open if selectivity results are positive or if the inspector overrides to intensive. ACE will transmit a "free to go" or a "hold" message to the carrier.

The export manifest will provide the link to various trade data sources that require closeout. Proof of export will be provided by the export manifest for international transactions including drawback claims, in-bonds, Temporary Importations Under Bond, etc. Linkages to AES will be used to validate exports within ACE.